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ElectionPATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Pierre CAROL et al.

Group Art Unit: 1638

Application No.: 09/807,867

Examiner: R. Kallis

Filed: June 15, 2001

Docket No.: 109326

For: cDNA SEQUENCE TRANSCRIBING AN mRNA ENCODING THE TERMINAL OXIDASE ASSOCIATED WITH CAROTENOID BIOSYNTHESIS, AND USES THEREOF

RESPONSE TO RESTRICTION REQUIREMENTDirector of the U.S. Patent and Trademark Office
Washington, D.C. 20231

Sir:

In reply to the October 7, 2002 Restriction Requirement, Applicants provisionally elect Group I, claims 1, 3, 7, 9, 10 and 12-15, with traverse.

According to Annex B of the Administrative Instructions under the PCT, Part 2, Example 7, a protein and the DNA sequence encoding that protein exhibit corresponding special technical features. Thus, unity of invention exists between claims directed to a protein and a DNA sequence encoding that protein. Thus, Group III, claim 5, which is directed to a protein with the activity of the native TOCB enzymes described by SEQ ID NO: 2 clearly has a corresponding special technical feature to the subject matter of elected Group I. Thus, the subject matter of Group III has unity of invention with the subject matter of elected Group I.

By the same analysis, the subject matter of Group II, which is directed to the complement of SEQ ID NO: 1, clearly has a corresponding special technical feature with the subject matter of Group I, which recites SEQ ID NO: 1. As a result, for the same reason, the subject matter of Group II has unity of invention with the subject matter of elected Group I.

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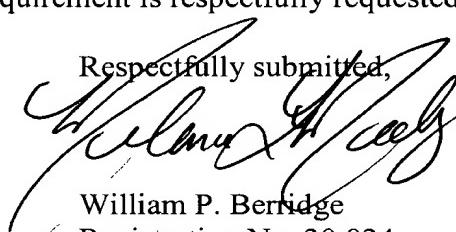
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Claim 16 of Group IV is directed to a process for selecting compounds comprising placing an agent into contact with cells or cell membranes of claim 12, which is directed to a plant cell transformed with a vector according to claim 10 of Group I. Thus, claim 16 clearly shares a special technical feature, i.e., the subject matter of claim 10, with Group I. Therefore, it is also respectfully submitted that Group IV clearly has unity of invention with elected Group I.

It is also respectfully submitted that the subject matter of all claims 1-19 is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



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